

RECEIVED
FEDERAL ELECTION COMMISSION

2016 OCT 19 PM 5:17

UTRECHT, KLEINFELD, FIORI, PARTNERS

ATTORNEYS AT LAW

1900 M Street, NW Suite 500 Washington, DC 20036

Main (202) 778-4000

Facsimile (202) 842-5825

www.up-law.com

CELA

October 19, 2016

Jeff S. Jordan

Office of the General Counsel

Federal Election Commission

999 E Street, N.W., 6th Floor

Washington, DC 20436

Re: MUR 7117, Joe Garcia for Congress

Dear Mr. Jordan:

This letter is submitted in response to the complaint filed in MUR 7117. The complaint is based on the fact that the July Quarterly report of Joe Garcia for Congress, the principal campaign committee of candidate Joe Garcia, was filed on July 16, 2016, rather than on July 15. Despite the Committee's correction of any filing issue within hours of the deadline, Complainant nevertheless makes sweeping allegations that the Committee purposely flaunted the law and was unwilling to comply with it.

In reality, the Committee transmitted its Quarterly report electronically to the FEC for filing on July 15, 2016. However, inadvertently, the report was erroneously designated as a Q1 April Quarterly Report. Due to that error, the Committee received an immediate reply email from the FEC dated July 15, 2016 informing it that processing was not possible "...because an incorrect ending coverage date of 6/30/2016 was used...." (See Attachment 1.) The Committee acted immediately to correct the error by checking the appropriate box for the July Quarterly Report and transmitting the report for filing with the FEC. The Committee received a response that the Form was "successfully transmitted," and therefore believed the July Quarterly was timely filed and on the public record as of July 15. (See Attachment 2 consisting of a copy of a screen shot generated by NGP, which is an FEC approved vendor.)

However, on July 16, the Committee realized that its report had indeed not appeared on the public record. The Committee immediately began making attempts to file the report, but these were rejected several times. The Committee retained some of screen shots of its repeated attempts to file the report. (See Attachment 3. Note that the committee also received additional screen shots matching that in Attachment 2.) Finally, the filing was accepted. (Note that the Committee filed a Form 99 explaining the problems it encountered regarding its July Quarterly Report.)

Respondent believes that the situation demonstrates that it used best efforts to file in a timely manner. (See 11 C.F.R. § 111.35(b)(3)). The Committee indeed assumed that its report was filed when it received a message indicating filing was "successfully transmitted," and reasonably relied on that notification as indication that its report was available on the public record. Upon discovering that its July Quarterly report had not been transmitted, Respondent immediately took steps to correct the situation and filed within 24 hours of the filing deadline. (See 11 C.F.R. § 111.35(b)(3)(ii)). Further, Respondent has timely filed all other FEC reports in this cycle.

The above outlined factual record demonstrates that Respondent: 1) intended to file on time; 2) attempted to file on time; 3) immediately addressed the situation when it realized the report was not on the public record; and 4) corrected the situation by filing within 24 hours of the due date. Further, the Committee has instituted new procedures to ensure future timely filing, to include avoiding reliance on a vendor transmission message and considering a report to be filed only when it receives the "FEC Financial Disclosure Filing Acknowledgement" email from the FEC acknowledging the receipt and acceptance of its electronic filing via the DISCLOSE protocol.

Given the minimal delay in filing and the Committee's attempt to take immediate corrective action, we respectfully request that the Commission dismiss this complaint and take no action in this matter. Once again, the Committee will take all necessary steps and institute corrective measures to avoid late filing in the future.

Sincerely,



Lyn Utrecht
Greg Holger

ATTACHMENT 1

MUR 7117, Joe Garcia for Congress

1704440802

From: <noreply-efiling@fec.gov>
Date: Fri, Jul 15, 2016 at 11:01 PM
Subject: FEC Electronic Filing Results
To:

DISCLOSE -- FEC Electronic Filing System Notice -- FILING COULD NOT BE PROCESSED

This is to inform you of the failure of your electronic filing via the DISCLOSE protocol.

Your filing was received at 2016-07-15 23:01:57.

Thank you for using DISCLOSE.

Do not reply to this notice. It is sent from an unattended account that cannot receive email.

Your filing could not be processed for the following reasons:

The Q1 report from C00521781 filed on 07/15/2016, could not be processed because an incorrect ending coverage date 06/30/2016 was used for this report.

Please file the report with the correct ending coverage date or contact your campaign finance analyst for assistance at (202) 694-1130 or (800)424-9530 extension 1130.

17004441080M

ATTACHMENT 2

MUR 7117, Joe Garcia for Congress

17044410894

FEC Report - Form 3

2

Form transmitted successfully! (null)

Report Parameters	Cover Page	Electronic Filing Settings
-------------------	------------	----------------------------

Committee Name

Joe Garcia for Congress C00521781

Start Date: *	04/01/2016	End Date: *	06/30/2016
Contrib Threshold: *	\$ 200.00	Disburs Threshold:	\$ 200.00
Cash on Hand: *	\$ 315,682.63		
Previous 11.a.i(B):	\$ 0.00	Previous 11.a.ii(B):	\$ 0.00
Limit to Member:			
Order:	Alphabetical Order		

Election Cycle Setup

Lead Prior Report Info

☐ Generate Form 32 (2) [Form 32 Info](#)

To change the information below, click on Cover Page and Electronic Filing Settings.

Address:	PO BOX 961374	Server:	disclose.fec.gov
City, State and Zip:	Miami FL, 33296	Entity:	FEC
Treasurer:	Roland Sanchez Medina	Password:	*****
Report Type:	July 15	Email:	
Signature Date:	07/15/2016	Fax:	

Edit Summary Pages

* Required fields

Save

Close Window

Run Contrib Brkdw: Calculations

Run Report Calculations

View Error Table

Preview Report

Download PDF

File Electronically

ATTACHMENT 3

MUR 7117, Joe Garcia for Congress

17044410800

FEC Report - Form 3

Report Parameters	Cover Page	Electronic Filing Settings	
Committee Name <div style="border: 1px solid black; padding: 5px;">Joe García for Congress C00521781</div>			
Start Date: * <div style="border: 1px solid black; padding: 2px;">04/01/2016</div>	Contrib Threshold: * <div style="border: 1px solid black; padding: 2px;">\$ 200.00</div>	<div style="border: 1px solid black; padding: 2px; text-align: center;">Processing</div>	
Cash on Hand: * <div style="border: 1px solid black; padding: 2px;">\$ 315,682.63</div>	Previous 11.a.i(B): <div style="border: 1px solid black; padding: 2px;">\$ 0.00</div>	<div style="border: 1px solid black; padding: 5px;"> <p>Your request is currently processing.</p> <p>Status: Starting ...</p> </div>	
Limit to Member: <div style="border: 1px solid black; padding: 2px;"></div>	Order: <div style="border: 1px solid black; padding: 2px;">Alphabetical Ord</div>	<div style="border: 1px solid black; padding: 2px;"> https://www.myngp.com/NgpWeb/app/1 </div>	
<div style="border: 1px solid black; padding: 2px;">Election Cycle Setup</div>	<div style="border: 1px solid black; padding: 2px;">Load Prior Rep</div>	<div style="border: 1px solid black; padding: 5px;"> <input type="checkbox"/> Generate Form 3Z (2) Form 3Z Info </div>	
<p>To change the information below, click on Cover Page and Electronic Filing Settings.</p>			
Address: <div style="border: 1px solid black; padding: 2px;">PO BOX 961374</div>	City, State and Zip: <div style="border: 1px solid black; padding: 2px;">Miami FL, 33296</div>	Server: <div style="border: 1px solid black; padding: 2px;">disclose.fec.gov</div>	Entity: <div style="border: 1px solid black; padding: 2px;">FEC</div>
Treasurer: <div style="border: 1px solid black; padding: 2px;">Roland Sanchez Medina</div>	Report Type: <div style="border: 1px solid black; padding: 2px;">July 15</div>	Password: <div style="border: 1px solid black; padding: 2px;">*****</div>	Email: <div style="border: 1px solid black; padding: 2px;"></div>
Signature Date: <div style="border: 1px solid black; padding: 2px;">07/15/2016</div>	Fax: <div style="border: 1px solid black; padding: 2px;"></div>		
<div style="border: 1px solid black; padding: 2px;">Edit Summary Pages</div>	<div style="border: 1px solid black; padding: 2px;">Save</div>	<div style="border: 1px solid black; padding: 2px;">Close Window</div>	<div style="border: 1px solid black; padding: 2px;">Run Contrib BrkdwN Calculations</div>

* Required fields

FEC Report - Form 3

Form not transmitted. (Uploading file (0)...) ?

Report Parameters	Cover Page	Electronic Filing Settings
-------------------	------------	----------------------------

Committee Name

Joe Garcia for Congress C00521781

Start Date: *	04/01/2016	End Date: *	06/30/2016
Contrib Threshold: *	\$ 200.00	Disburs Threshold:	\$ 200.00
Cash on Hand: *	\$ 315,682.63		
Previous 11.a.i(B):	\$ 0.00	Previous 11.a.ii(B):	\$ 0.00
Limit to Member:			

Order:

Alphabetical Order

Election Cycle Setup

Load Prior Report Info

☐ Generate Form 3Z (?) Form 3Z Info

To change the information below, click on Cover Page and Electronic Filing Settings.

Address:	PO BOX 961374	Server:	disclose.fec.gov
City, State and Zip:	Miami FL, 33296	Entity:	FEC
Treasurer:	Roland Sanchez Medina	Password:	*****
Report Type:	July 15	Email:	
Signature Date:	07/15/2016	Fax:	

Edit Summary Pages

* Required fields

Save

Close Window

Run Contrib Brkdown Calculations

Run Report Calculations

View Error Table

Preview Report

Download PDF

File Electronically